

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
NEW YORK BRANCH OFFICE
DIVISION OF JUDGES

CALYER ARCHITECTURAL WOODWORKING CORP.

and

Case No. 29-CA-24762

UNITED BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, AFL-CIO, NEW YORK
DISTRICT COUNCIL OF CARPENTERS

CALYER ARCHITECTURAL WOODWORKING CORP.

and

Case No. 29-CA-24859

GERMAINE BOWEN, An Individual

CALYER ARCHITECTURAL WOODWORKING CORP.

and

Case Nos. 29-CA-24915
29-CA-24960
29-CA-25021

UNITED BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, AFL-CIO, NEW YORK
DISTRICT COUNCIL OF CARPENTERS

Aggie Kapelman, Esq., for the General Counsel.

SUPPLEMENTAL DECISION

Statement of the Case

STEVEN FISH, Administrative Law Judge. On September 30, 2002, the Board issued a Decision and Order in Case No. 29-CA-24762 (338 NLRB No., 33), directing Calyer Architectural Woodworking Corp., herein called Respondent to offer reinstatement to Walter Clayton, Jr. and make him whole for any loss of earnings he may have suffered as a result of the discrimination against him. On November 13, 2002, the Board issued an order (unpublished) in Case Nos. 29-CA-24859; 29-CA-24915; 29-CA-24960 and 29-CA-25021, directing Respondent to reinstate and make whole Germaine Bowen, herein called Bowen and to offer employment to and make whole Anthony Lazcano, for losses of earnings as a result of the discrimination against them.

The United States Court of Appeals for the Second Circuit issued Judgments enforcing in full the orders of the Board on February 28, 2003 and December 24, 2003 respectively.

On May 18, 2004 the Region issued a Compliance Specification and Notice of Hearing alleging certain amounts of backpay due to Bowen and Lazcano. The Specification asserted that since Clayton's interim earnings exceeded his gross backpay, Respondent has no monetary obligation on behalf of Clayton.

Motion for Summary Judgment

5 The Specification required that Respondent file an Answer to the Specification within 21 days from the date of said Specification. Respondent did not file an answer to the Specification, nor did Respondent appear at the trial on June 30, 2004, or make any requests to either adjourn the trial or to extend the time to answer.

10 Walter Clayton, who was as noted, a discriminatee in Case No. 29-CA-24762, was and is also an organizer for the New York City District Council of Carpenters. On or about June 22, 2004, Clayton saw Rino Buscemi, Respondent's owner standing outside the shop. Clayton could hear machines operating. Clayton asked Buscemi if he was coming to the hearing scheduled for June 30, 2004. Buscemi replied "No, I don't have any money, thanks to you."

15 Counsel for General Counsel, based on the above circumstances made a motion for Summary Judgment pursuant to Section 102.56 of the Board's Rules and Regulations.

20 I granted said motion on the record, and I reaffirm that ruling. It is clear that an Administrative Law Judge has the authority to issue a rule on Motions for Summary Judgment at the hearing, under Sections 102.35(a)(8) and 102.24(a). See, *Calyer Architectural Woodworking, supra*, one of the underlying decisions in this case. It is therefore appropriate for me to exercise that authority and to grant General Counsel's Motion.

25 Based on the foregoing findings of fact and conclusions of law and based on the entire record, I issue the following recommended ¹

ORDER

30 The Respondent Calyer Architectural Woodworking Corp., Brooklyn, New York, its officers, agents, successors and assigns, shall

Pay to Germaine Bowen and Anthony Lazcano the sums of \$3,763.35 and \$1,807.08 respectively, plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

35 Dated:

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Steven Fish
Administrative Law Judge

50 ¹ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.